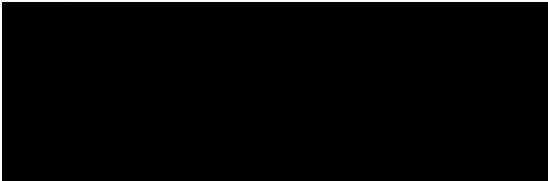




U.S. Citizenship
and Immigration
Services

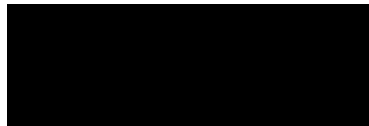
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FILE: EAC 02 249 51371 Office: VERMONT SERVICE CENTER

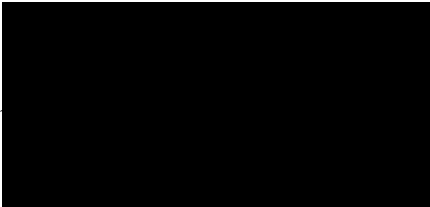
Date: NOV 10 2004

IN RE: Petitioner:
Beneficiary:



PETITION: Immigrant Petition for Special Immigrant Religious Worker Pursuant to Section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4), as described at Section 101(a)(27)(C) of the Act, 8 U.S.C. § 1101(a)(27)(C)

ON BEHALF OF CHURCH OF THE HOLY SPIRIT:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Mari Jensen

Robert P. Wiemann, Director
Administrative Appeals Office

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

PUBLIC COPY

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be rejected.

The petitioner seeks classification as a special immigrant religious worker pursuant to section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4), to perform services as a priest at Church of the Holy Spirit. The director determined that the petitioner had not established: (1) that he had the requisite two years of continuous work experience as a priest immediately preceding the filing date of the petition; (2) that the position offered was truly that of a priest; (3) the intending employer's ability to pay the proffered wage; or (4) the intending employer's status as a tax-exempt religious organization.

8 C.F.R. § 103.3(a)(2)(v)(A)(I) states that an appeal filed by a person or entity not entitled to file it must be rejected as improperly filed. In such a case, any filing fee the Service has accepted will not be refunded.

8 C.F.R. § 103.2(a)(2) states that an applicant or petitioner must sign his or her application or petition. In this instance, the alien beneficiary signed the Form I-360 petition. Therefore, the alien beneficiary, and not the Church of the Holy Spirit, has taken legal responsibility for the petition, and the alien beneficiary is, thus, the petitioner. The appeal was filed by an attorney who does not represent the petitioner; rather, he represents the church, which has no standing in the proceeding.

We note that the petitioner provided a mailing address in care of the church, and the director mailed the notice of decision to that address. This does not confer recognition on the church as the petitioner; the decision was addressed *to the alien* at the church's address.

In this instance, the appeal has not been filed by the petitioner, nor by any entity with legal standing in the proceeding, but rather by the intending employer. Therefore, the appeal has not been properly filed, and must be rejected.¹

ORDER: The appeal is rejected.

¹ We note that the appeal fails to address several of the numerous stated grounds for denial. Thus, even if it had been properly filed, the appeal could not have overcome the director's findings and established the petitioner's eligibility.